



## LODI CITY COUNCIL

Carnegie Forum

305 West Pine Street, Lodi

## AGENDA – SPECIAL MEETING

Date: October 22, 2019

Time: 7:00 a.m.

\*and via conference call:

1311 Midvale Road

Lodi, CA 95240

&

437 E. Elm Street

Lodi, CA 95240

For information regarding this Agenda please contact:

**Jennifer M. Ferraiolo**

**City Clerk**

**Telephone: (209) 333-6702**

### A. Call to Order / Roll Call

### B. Regular Calendar

Res. B-1 Adopt Resolution Authorizing City Manager to Execute Improvement Agreement for Public Improvements of Lodi Unified School District Maintenance Facility (PW)

### C. Adjournment

Pursuant to Section 54956.2(a) of the Government Code of the State of California, this agenda was posted at a place freely accessible to the public 24 hours in advance of the scheduled meeting.

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Jennifer M. Ferraiolo  
City Clerk

*All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 72 hours prior to the meeting date. Language interpreter requests must be received at least 72 hours in advance of the meeting to help ensure availability. Contact Jennifer M. Ferraiolo at (209) 333-6702. Solicitudes de interpretación de idiomas deben ser recibidas por lo menos con 72 horas de anticipación a la reunión para ayudar a asegurar la disponibilidad. Llame a Jennifer M. Ferraiolo (209) 333-6702.*

**\*\*NOTICE:** Pursuant to Government Code §54954.3(a), public comments may be directed to the legislative body concerning any item contained on the agenda for this meeting before (in the case of a Closed Session item) or during consideration of the item.\*\*



# CITY OF LODI

## COUNCIL COMMUNICATION

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**AGENDA TITLE:** Adopt Resolution Authorizing City Manager to Execute Improvement Agreement for Public Improvements of Lodi Unified School District Maintenance Facility

**MEETING DATE:** October 22, 2019

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Adopt resolution authorizing City Manager to execute Improvement Agreement for public improvements of Lodi Unified School District Maintenance Facility.

**BACKGROUND INFORMATION:** The Lodi Unified School District (Developer) has submitted two building permit applications (No. 20190689 and No. 20190690) to construct a maintenance facility on the property located at 880 North Guild Avenue (as shown in Exhibit A).

The Lodi Unified School District Maintenance Facility Project (Project) includes the installation of on-site public improvements and public improvements on Guild Avenue. Developer has requested to execute an improvement agreement to design and construct the public improvements to expedite construction of the on-site improvements. City staff has deemed this a reasonable request and included a condition requiring that the public improvements be completed prior to final acceptance of the Project.

Developer has furnished the City with improvement plans, necessary agreements, guarantees, insurance certificates, and the required fees for the proposed project. Development Impact Fees will be collected as part of the building permit process, prior to issuing a certificate of occupancy.

Staff recommends authorizing City Manager to execute Improvement Agreement for public improvements of Lodi Unified School District Maintenance Facility.

**FISCAL IMPACT:** Not applicable.

**FUNDING AVAILABLE:** Not applicable.

\_\_\_\_\_  
Charles E. Swimley, Jr.  
Public Works Director

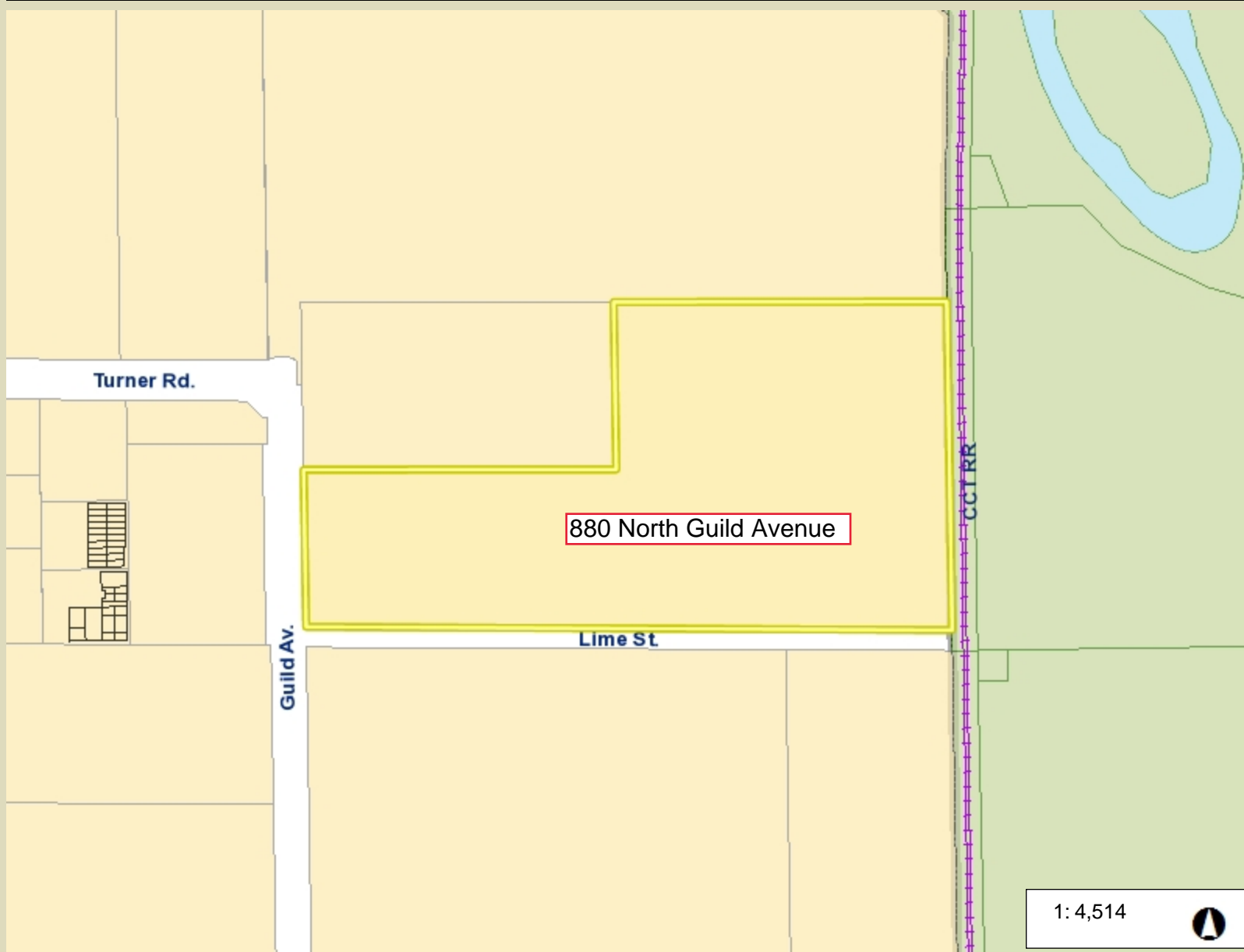
Prepared by Karissa Kiri, Assistant Engineer  
CES/KTVK/tdb  
Attachments

cc: City Attorney  
Deputy Public Works Director/City Engineer  
Assistant Engineer, Kiri  
Senior Engineering Technician, Wiman  
Lodi Unified School District, Developer/Owner

**APPROVED:** \_\_\_\_\_  
Stephen Schwabauer, City Manager



# Exhibit A



## Legend

### Landmarks

- ARCH
- CITYBUILDINGS
- CITYHALL
- COURT
- DOGPAK
- FIRESTATIONS
- HIGH SCHOOLS
- HOSPITALS
- LIBRARY
- LND-MRKS
- PARKS
- POLICE
- POST OFFICE
- SCHOOLS
- SKATEPARK
- SOFTBALL
- STADIUM
- THEATRE
- TRAIN

### Railroads

### Waterbodies

### Canal

### Street Names

### Basins

### Parks

### Schools

### Parcels 2nd Story

### Inner Parcels

752 0 376 752Feet

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© City of Lodi Geographic Information Systems

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

## Notes

LUSS Maintenance Facility  
880 North Guild Avenue  
Lodi, CA 95240

WHEN RECORDED, RETURN TO:  
City Clerk  
City of Lodi  
221 West Pine Street  
Lodi, CA 95240

IMPROVEMENT AGREEMENT  
for the  
PUBLIC IMPROVEMENTS  
of the  
LODI UNIFIED SCHOOL DISTRICT MAINTENANCE FACILITY  
(880 NORTH GUILD AVENUE)  
APN 049-330-08

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, a California municipal corporation, hereinafter referred to as "City", the LODI UNIFIED SCHOOL DISTRICT, hereinafter referred to as "Developer," and DIEDE CONSTRUCTION, INC., a California corporation, hereinafter referred to as "Developer's Contractor."

RECITALS:

Developer has submitted building permit application Nos. 20190689 and 20190690 for the development of the Lodi Unified School District Maintenance Facility located at 880 North Guild Avenue, hereinafter called "Development", on the property more particularly described as Parcel 1 in Exhibit A and Exhibit B, attached hereto and made a part hereof.

Developer is required to construct and complete public improvements as a condition of approval of the building permit application. Developer has presented to the City for approval public improvement plans for the Lodi Unified School District Maintenance Facility Public Improvements, hereinafter called "Project," to construct such public improvements.

Developer has requested approval of the public improvement plans for the construction and completion of public improvements which are a part of or appurtenant to the Development, all in accordance with and as required by the plans and specifications for all or any of said improvements in, appurtenant to, or outside the limits of the project, which plans and specifications are now on file in the office of and endorsed with the approval of the Public Works Director or his designee.

City Council will adopt a resolution authorizing construction and completion of the public improvements on condition that the Developer first enters into and executes this Agreement with the City and meets the requirements of said resolution; and

Developer's Contractor is made a party to this Agreement solely to secure the Faithful Performance Bonds and Labor and Materials Bonds referred to in Paragraph 11 below and to secure the Insurance referred to in paragraph 14 below. Developer's Contractor has no other obligations under this Agreement.

This Agreement is executed pursuant to the provisions of the Subdivision Map Act of the State of California and Titles 15 and 17 of the Lodi City Municipal Code ("LMC").

NOW THEREFORE, for and in consideration of the acceptance of the dedications offered, and in order to insure satisfactory performance by Developer of Developer's obligations under State law and City Code, the parties agree as follows:

1. Performance of Work by Developer

Developer will do and perform, or cause to be done and performed at Developer's own expense, in a good and workmanlike manner, and furnish all required materials, all under the direction and to the satisfaction of City's Public Works Director, all of the work and

improvements as shown on the approved improvement plans for the Project, Drawing Nos. 019D008-01 through 018D008-12, which are on file in the Public Works Department.

2. Development Changes

Developer shall also perform all work and furnish all materials necessary to comply with any changes required by the Public Works Director, which, in his opinion, are necessary or required to complete the work in conformance with City Standards or are the result of changed conditions.

3. Performance of Work by City

Prior to the issuance of the building permit by the City, it is agreed that the Developer shall deposit with the City the amount of money shown as the "Developer Cost" on Billing Schedule, attached hereto as Exhibit C, and by this reference made a part hereof.

From payments made under the Billing Schedule, Developer elects to have the City perform or install or cause the installation of the following items:

- A. Street seal coat;
- B. Storm Water Permit Compliance Inspections. The fee shown on the Billing Schedule is based on one (1) inspection per month for construction activities covering twelve months period. The fee will be adjusted, if necessary, when the improvements are complete and ready for acceptance by the City. Any additional fee must be paid prior to project acceptance.

Developer shall also pay all additional costs for work performed by City deemed by the Public Works Director necessary to complete the work under this Agreement in conformance with City Standards.

4. Development Impact Mitigation Fees

Development Impact Mitigation Fees for water, wastewater capacity, storm drain, street improvements, police, fire, parks and recreation, electrical, art in public places, and general City facilities are required for the Development.

5. Work; Time for Commencement and Performance

Developer shall, within 365 calendar days from the date of this Agreement, perform or cause to be performed, all work and/or improvements described in this Agreement. At least 15 calendar days prior to the commencement of work hereunder, Developer shall notify the Public Works Director of the date fixed by Developer for commencement thereof, so that City can provide inspection services.

6. Time Extension

Time is of the essence of this Agreement. City may extend the time for completion of the improvements hereunder, under the terms of an addendum to this Agreement, which shall be approved and executed by the City Manager. Any such extension may be granted without notice to Developer's surety, and extensions so granted, shall not relieve the surety's liability on the bond to secure the faithful performance of Developer under this Agreement. The City Manager shall be the sole and final judge as to whether or not good cause has been shown to entitle Developer to an extension.

7. Record Drawings and Certifications

Prior to acceptance of the Project improvements, Developer shall have provided record drawings and certifications as described in the City of Lodi Public Improvement Design Standards.

8. Permits; Compliance with Law

Developer shall, at Developer's expense, obtain all necessary permits and licenses for the construction of the improvements described in this Agreement, give all necessary notices, and pay all fees and taxes required by law.

9. Superintendence by Developer

Developer shall give personal superintendence to the work of said Project improvements, or have a competent agent, foreman or superintendent, satisfactory to the Public Works Director, on the work site at all times during construction, with authority to act for Developer.

10. Inspection by City

Developer, shall at all times, maintain proper facilities and provide safe access for inspection by City to all parts of the work site. Inspections will be provided during normal working hours of City staff. Developer will be billed for inspections on work performed on weekends, holidays and overtime. Developer shall also pay all additional costs incurred by City for soils and materials testing and/or inspection services, including storm water compliance inspections, required as a part of City inspection activities.

11. Contract Security

Concurrently with the execution of this Agreement, Developer's Contractor shall furnish Improvement Security of at least 100 percent of the estimated cost of the public improvements required to be constructed, plus deferred fees and engineering costs of surveying, record drawings and certifications as security for the faithful performance of this Agreement; and an amount equal to at least 100 percent of the above costs, excluding deferred fees, as security for the payment of all persons performing labor and furnishing materials in connection with this Agreement as more fully described in the State Subdivision Map Act.

The City has determined these security amounts to be as follows:

Faithful Performance:	\$ 261,100.00
Labor and Materials:	\$ 261,100.00

12. Warranty Security

Prior to acceptance of the Project improvements by City, Developer shall furnish warranty security of at least 10 percent of the total cost of the Project improvements required to be constructed, as security for repair or replacement of defective work as provided under Paragraph 16 of this Agreement. The warranty period shall be two years following the date of acceptance of the improvements by City. If any portion of the Project receives partial acceptance during the course of construction, the warranty period for all required Project improvements shall commence upon the date of final acceptance for the entire Project.

13. Hold-Harmless Agreement

Developer hereby agrees to, and shall, hold City, its elected and appointed boards, commissions, officers, agents, and employees, harmless from any liability for damage or claims for damage from personal injury, including death, as well as from claims for property damage which may arise from Developer's or Developer's contractors', subcontractors', agents' or employees' operations under this Agreement, whether such operations be by Developer or by any of Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for, Developer or any of Developer's contractors or subcontractors. Developer agrees to, and shall, defend City and its elected and appointed boards, commissions, officers, agents, and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations; provided as follows:

- A. That City does not, and shall not, waive any rights against Developer which it may have by reason of the aforesaid hold-harmless agreement, because of the acceptance by City, or the deposit with City by Developer, of any of the insurance policies described in Paragraph 14 of this Agreement.
- B. That the aforesaid hold-harmless agreement by Developer shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations referred to in this paragraph, regardless of whether or not City has prepared, supplied or approved of, plans and/or specifications for the Project, or regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

#### 14. Developer's Insurance

Developer's Contractor shall not commence work under this Agreement until Developer's Contractor shall have obtained all insurance required under this paragraph, nor shall Developer's Contractor allow any contractor or subcontractor to commence work on Developer's contract or subcontract until all similar insurance required of the contractor or subcontractor shall have been so obtained. All requirements herein provided shall appear either in the body of the insurance policies or as endorsements and shall specifically bind the insurance carrier.

##### A. Worker's Compensation Insurance

Developer's Contractor shall maintain, during the life of this agreement, Worker's Compensation Insurance for all Developer's Contractor employees employed at the site of improvement, and in case any work is sublet, Developer shall require any contractor or subcontractor similarly to provide Worker's Compensation Insurance for all contractors' or subcontractors' employees, unless such employees are covered by the protection afforded by Developer's Contractor. In case any class of employees engaged in hazardous work under this Agreement at the site of the Project is not protected under the Worker's Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide insurance for the protection of said employees. **A waiver of subrogation is required for workers compensation insurance.** This policy may not be canceled nor the coverage reduced without 30 days prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 West Pine Street, Lodi, CA, 95240. Developer's Contractor hereby indemnifies City for any damage resulting to it from failure of either Developer or any contractor or subcontractor to take out or maintain such Worker's Compensation insurance.

##### B. Comprehensive General and Automobile Insurance

Developer's Contractor shall take out and maintain during the life of this Agreement such insurance as shall insure City, its elected and appointed boards, commissions, officers, agents, and employees, Developer and any contractor or subcontractor performing work covered by this Agreement from claims for damages for personal injury, including death, as well as from claims for property damage which may arise from the Project or the Project property, including any public streets or easements, from Developer's or any contractors' or subcontractors' operations hereunder, whether such operations be by Developer or any contractor or subcontractor or by anyone directly or indirectly employed by either Developer or any contractor or subcontractor, and the amount of such insurance shall be as follows:

##### 1. COMPREHENSIVE GENERAL LIABILITY

\$5,000,000 Each Occurrence  
\$10,000,000 General Aggregate

## 2. COMPREHENSIVE AUTOMOBILE LIABILITY

\$5,000,000 Combined Single Limit

Such insurance shall cover liability arising out of any vehicle (including, owned, hired and non-hired vehicles) operated in performing any and all services pursuant to this Agreement. Coverage shall be written on ISO form CA 00 01 12 90, or a later version, that provides liability coverage at least as broad as this form.

Developer's Contractor must have comprehensive automobile liability only if Developer's Contractor vehicles are used for the Project or on the Project property.

**NOTE: The City of Lodi is now using the online insurance program PINS Advantage. Once you have been awarded a contract you will receive an email from the City's online insurance program requesting you to forward the email to your insurance provider(s). Please see attached flyer regarding PINS Advantage.**

**NOTE:** Developer's Contractor agrees and stipulates that any insurance coverage provided to the City of Lodi shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810 et seq.). "Claims made" coverage requiring the insureds to give notice of any potential liability during a time period shorter than that found in the Tort Claims Act shall be unacceptable.

All limits are to be designated strictly for the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers. All deductibles or self-insured retentions (SIR) must be disclosed to City's Risk Manager for approval and shall not reduce the limits of liability set forth hereinabove. Insurance policies containing any deductible or SIR provision shall provide, or be endorsed to provide, that the deductible or SIR may be satisfied by either the Named Insured(s) or the City of Lodi.

It is required that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth above, shall be available to City as an additional insured. Furthermore, the requirements for coverage and limits shall be (i) the minimum coverage and limits specified in these insurance requirements; or (ii) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Developer's Contractor; whichever is greater.

A copy of the certificate of insurance with the following endorsements shall be furnished to the City:

### A. Additional Named Insured Endorsement

Pursuant to a separate endorsement (ISO form CG 2010 (11/85) or a later version, that provides liability coverage at least as broad as this form) Such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed boards, commissions, officers, agents and employees as additional named insured insofar as work performed by the insured under written contract with the City of Lodi. This endorsement shall be on the form furnished by City and shall be included with Developer's policies. An additional named insured endorsement is also required for Auto Liability.

### B. Primary and Non-Contributory Insurance Endorsement

Additional insurance coverage under the Developer's Contractor policy shall be "primary and non-contributory" and will not seek contribution from City's insurance or self-insurance and shall be at least as broad as ISO form CG 20 01 04 13.

C. Severability of Interest Clause

The term "insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the Developer's Contractor liability.

D. Waiver of Subrogation

Include a waiver of subrogation against the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers. A waiver is required for General Liability and Auto Liability.

E. Limits of Coverage

The limits of insurance coverage required may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance of Developer's Contractor shall contain, or be endorsed to contain, a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect the City as a named insured.

F. Completed Operations Endorsement

For three years after completion of project, a certificate of insurance with a Completed Operations Endorsement, CG 20 37 07 04, will be provided to the City of Lodi.

G. Continuity of Coverage

All policies shall be in effect on or before the first day of the Term of this Agreement. At least thirty (30) days prior to the expiration of each insurance policy, Developer's Contractor shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the minimum requirements of this Agreement. Developer's Contractor shall provide proof of continuing insurance on at least an annual basis during the Term. If Developer's Contractor insurance lapses or is discontinued for any reason, Developer's Contractor shall immediately notify the City and immediately obtain replacement insurance.

H. Failure to Comply

If Developer's Contractor fails or refuses to obtain and maintain the required insurance, or fails to provide proof of coverage, the City may obtain the insurance. Developer's Contractor shall reimburse the City for premiums paid, with interest on the premium paid by the City at the maximum allowable legal rate then in effect in California. The City shall notify Developer's Contractor of such payment of premiums within thirty (30) days of payment stating the amount paid, the name(s) of the insurer(s), and rate of interest. Developer's Contractor shall pay such reimbursement and interest on the first (1<sup>st</sup>) day of the month following the City's notice. Notwithstanding any other provision of this Agreement, if Developer's Contractor fails or refuses to obtain or maintain insurance as required by this Agreement, or fails to provide proof of insurance, the City may terminate this Agreement upon such breach. Upon such termination, Developer's Contractor shall immediately cease use of the Site or facilities and commence and diligently pursue the removal of any and all of its personal property from the site or facilities.

I. Qualified Insurer(s)

All insurance required by the terms of this Agreement must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the AM Best Ratings Guide, and which are acceptable to the City. Non-admitted surplus lines carriers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet City requirements.

15. Title to Improvements

Title to, and ownership of, all public improvements constructed hereunder by Developer shall vest absolutely in City upon completion and acceptance of such public improvements by City.

16. Repair or Reconstruction of Defective Work

If, within a period of two (2) years after final acceptance by City of the work performed under this Agreement, any structure or part of any structure furnished and/or installed or constructed, or caused to be installed or constructed by Developer, or any of the work done under this Agreement, including the mitigation measures for dust and erosion control, fails to fulfill any of the requirements of this Agreement plans and specifications referred to herein, Developer and Developer's surety shall, without delay and without cost to City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the work or structure. Should Developer or Developer's surety fail to act promptly or in accordance with this requirement, or should the exigencies of the case require repairs or replacements to be made before Developer can be notified, City may, at its option, make the necessary repairs or replacements or perform the necessary work, and Developer shall pay to City the actual cost of such repairs plus 15-percent for administration and overhead costs.

17. Repair or Replacement of City-Owned Bypass Meter Assemblies

Developer is required by City to install bypass meter assemblies in conjunction with the installation of water mains in the City of Lodi. City will supply these assemblies upon receipt of a deposit in the amount of \$5,000 for each assembly required. The purpose of the deposit is to guarantee the return of the assembly in good condition and fulfillment of the other obligations shown in the City's Policies and Procedures entitled "Metering Water Usage of New Water Mains Requiring Temporary Bypasses."

18. Mud, Debris, Dust and Erosion

Developer agrees and covenants not to permit mud or other debris to be tracked from the Project site or elsewhere onto City or County streets or onto private property without express permission. Developer further agrees not to cause damage to City or County streets.

Should any mud or debris be deposited in City or County streets or any damage is caused to City or County streets, Developer shall have the same removed or repaired forthwith, and if not removed or repaired upon notice within a specified time, City shall cause the same to be removed or repaired and Developer shall be charged for the cost of said removal or repairs.

Developer, Developer's contractor, subcontractors, and/or agents shall be responsible for dust and erosion problems created during construction, including installation of telephone, electrical, cable television and gas facilities. Developer's responsibility for dust and erosion control shall extend to include a period of two years from the date of final acceptance by City of the work performed under this Agreement.

If a dust or erosion problem arises during development or within a period of two (2) years from the date of final acceptance by City of the work performed under this Agreement, including but not limited to installation of telephone, electrical, cable television, and/or gas facilities, and has not, after notice, been abated by Developer within a specified period of time, City shall cause the same to be controlled, and Developer shall be charged with the cost of said control.

19. Fire Protection During Construction

Fire protection facilities approved by City's Fire Chief, including all-weather access road and an approved water supply capable of supplying the required fire flow, shall be installed and made serviceable in accordance with the City Fire Code (as set forth in the Lodi Municipal Code) prior to and during the time of building construction. The above

may be modified when alternate methods of protection approved by the Fire Chief are provided.

20. Protection of Existing Improvements

Damage to any existing improvements, private or public utility lines installed or undergoing installation in which damage occurs during the onsite and offsite construction required of Developer under this Agreement, shall be the absolute responsibility and liability of Developer. In other words, it shall be Developer's responsibility to pay for damage to existing improvements and public or private utilities within the Project property. Damage to any existing facilities outside the limits of the Project damaged as part of the construction of the required Project improvements is also Developer's responsibility.

21. Dwelling Occupancy

City will not allow occupancy of any building or structure within the Development until all public improvements have been approved and accepted by the Public Works Department per established City policy and other requirements of City codes have been met. If building is started prior to acceptance of the improvements, it is Developer's responsibility to inform all prospective purchasers that occupancy will not be permitted until the public improvements are so accepted by City.

22. Developer Not Agent of City

Neither Developer nor any of Developer's agents, contractors, or subcontractors are or shall be considered to be agents of City in connection with the performance of Developer's obligations under this Agreement.

23. Notice of Breach and Default

If Developer refuses or fails to obtain prosecution of the work, or any severable part thereof, with such diligence as will insure its completion within the time specified, or any extensions thereof, or fails to obtain completion of said work within such time, or if Developer should be adjudged bankrupt, or Developer should make a general assignment for the benefit of Developer's creditors, or if a receiver should be appointed in the event of Developer's insolvency, or if Developer or any of Developer's contractors, subcontractors, agents, or employees, should violate any of the provisions of this Agreement, the Public Works Director or City Council may serve written notice upon Developer and Developer's surety of breach of this Agreement, or any portion thereof, and the default of Developer.

24. Breach of Agreement; Performance by Surety or City

In the event of any such notice, Developer's surety shall have the duty to take over and complete the work and the Project improvements herein specified; provided however, that if the surety, within five (5) days after the serving upon it of such notice of breach, does not give City written notice of its intention to take over the performance of this Agreement, and does not commence performance thereof within five (5) days after notice to City of such election, City may take over the work and prosecute the same to completion, by contract or by any other method City may deem advisable, for the account and at the expense of Developer, and Developer's surety shall be liable to City for any excess cost or damage occasioned City thereby; and, in such event, City, without liability for so doing, may take possession of, and utilize in completing the work, such materials, appliances, plant and other property belonging to Developer as may be on the site of the work and necessary therefor.

25. This Agreement shall run with the land and be binding on the Owner, its heirs, successors and assigns.

26. Notices.

All notices herein required shall be in writing, signed by the authorized representative of the sender and shall be deemed to have been given when the same is personally served

or upon receipt by express or overnight delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties.

Notices required to be given to City shall be addressed as follows:

Charles E. Swimley, Jr.  
Public Works Director  
City of Lodi  
221 West Pine Street  
P. O. Box 3006  
Lodi, CA 95241-1910

Notices required to be given to Developer shall be addressed as follows:

Lodi Unified School District  
1305 Vine Street  
Lodi, CA 95240  
Attn: Leonard Kahn

Notices required to be given to Developer's Contractor shall be addressed as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notices required to be given to Surety shall be addressed as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Provided that either party or the surety may change such address by notice in writing in the manner set forth above, to the other party and thereafter notices shall be addressed and transmitted to the new address.

*[The balance of this page is intentionally left blank.]*

27. Authority

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

In Witness Whereof, Developer, Developer's Contractor, and City have caused their names and corporate seals to be hereunto affixed.

LODI UNIFIED SCHOOL DISTRICT,

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
LEONARD KAHN  
Chief Business Officer

(CORPORATE SEAL)

DIEDE CONSTRUCTION, INC,  
a California corporation

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:

(CORPORATE SEAL)

CITY OF LODI,  
a California municipal corporation

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
STEPHEN SCHWABAUER  
City Manager

ATTEST:

\_\_\_\_\_  
JENNIFER M. FERRAILO  
City Clerk

(CORPORATE SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
JANICE D. MAGDICH  
City Attorney

**ORDER NO. : 1212021465**

**EXHIBIT A**

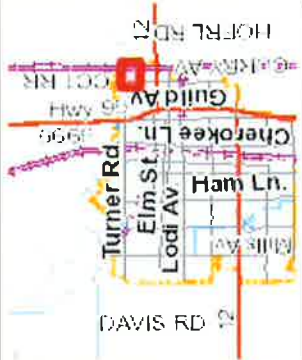
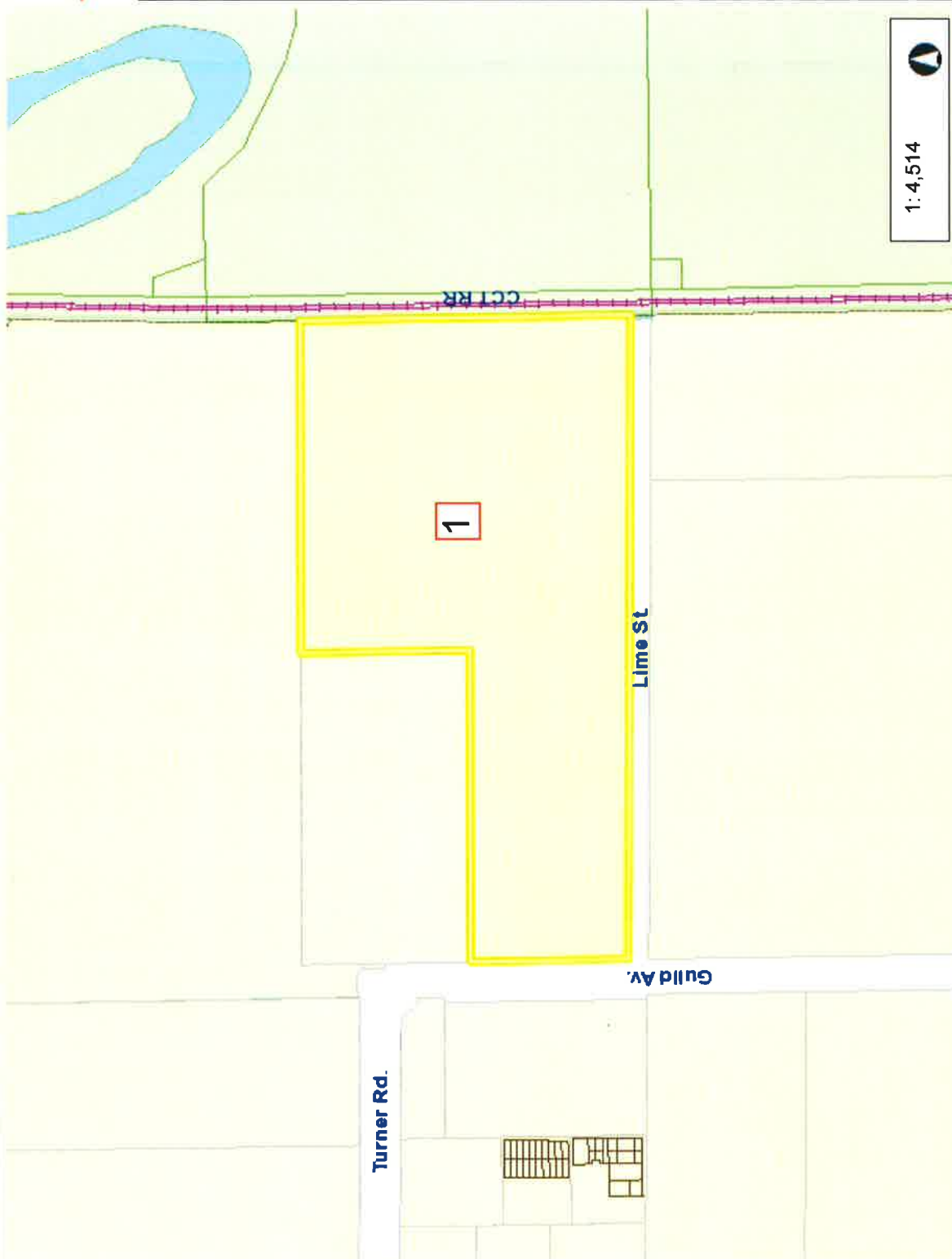
The land referred to is situated in the County of San Joaquin, City of Lodi, State of California, and is described as follows:

The South 1/2 of Lots 27 and 28; all of Lots 29 and 30 Eddleman Tract, according to the Official Map or Plat thereof, filed for record December 23, 1887 in Volume 1, Page 26, San Joaquin County Records.

APN: 049-330-08



# Exhibit B



**Legend**

**Landmarks**

ARCH

CITYBUILDINGS

CITYHALL

COURT

DOGPARK

FIRESTATIONS

HIGH SCHOOLS

HOSPITALS

LIBRARY

LND-MRKS

PARKS

POLICE

POST OFFICE

SCHOOLS

SKATEPARK

SOFTBALL

STADIUM

THEATRE

TRAIN

Railroads

Waterbodies

Canal

**Street Names**

Basins

Parks

Schools

☐ Parcels 2nd Story

☐ Inner Parcels

752

0

376

752 Feet

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© City of Lodi Geographic Information Systems

**Notes**

LUSD Maintenance Facility  
880 North Guild Avenue  
Lodi, CA 95240

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

## BILLING SCHEDULE

## EXHIBIT C

Development: Lodi Unified School District Maintenance Facility (880 North Guild Avenue)  
 Developer: Lodi Unified School District  
 Engineer: RSC Engineering  
 Date: 8/21/19

Gross Acreage: 15.00  
 No. of Units: N/A

					DEVELOPER COST	CREDITS
<b>ENGINEERING</b>						
Plan Check Fee	(5.0% of	\$100,000)	ENG FEE	\$	5,000.00	
	(3.5% of	\$161,100)	ENG FEE		5,638.50	
Inspection Fee	(4.0% of	\$250,000)	ENGINS		10,000.00	
	(3.5% of	\$11,100)	ENGINS		388.50	
Plan Check Fee Paid			ENG FEE			\$ 6,952.83
Improvement Agreement			ENG FEE		\$2,211.00	
ENGINEERING SUBTOTAL					\$ 23,238.00	\$ 6,952.83
<b>STREET SYSTEM</b>						
Charges for work by City Forces:						
Seal Coat		NC07 3,407 SF @ \$	0.08		\$272.56	
STREET SYSTEM SUBTOTAL					\$272.56	\$0.00
<b>SEWER SYSTEM</b>						
Charges for Work by City Forces:						
Service Abandonment		PW03 0 EA @ \$	1,827.00		0.00	
SEWER SYSTEM SUBTOTAL					\$0.00	\$0.00
<b>WATER SYSTEM</b>						
Charges for work by City Forces:						
Ties to Existing System by City		PW02 0 Lump Sum \$	5,803.00		0.00	
WATER SYSTEM SUBTOTAL					\$0.00	\$0.00
<b>STORM DRAIN SYSTEM</b>						
(1) Storm Drain Permit		PW03 1 EA @ \$	210.00		210.00	
Compliance Inspections		11 EA @ \$	167.00		1,837.00	
STORM DRAIN SYSTEM SUBTOTAL					\$2,047.00	\$0.00
<b>ELECTRICAL SYSTEM</b>						
To be billed separately by Electric Utility Department						
TOTAL AMOUNT OF BILLING SCHEDULE					\$25,557.56	\$6,952.83
Reimbursement Agreement 2003-01						
049-330-08 (old APN 049-080-05) 7.436 Acres @ \$12,887.75/Acre					\$95,833.31	
<b>NET AMOUNT TO BE PAID BY DEVELOPER TO CITY PRIOR TO PROJECT APPROVAL</b>					<b>\$114,438.04</b>	

(1) Storm Drain Permit Compliance Inspections are required at least once a month. The charges shown are an estimate based on one inspection per month over an estimated construction period spanning twelve months. The fee will be adjusted, if necessary, when the improvements are complete and ready for acceptance by the City. Any additional fee must be paid prior to project acceptance.

RESOLUTION NO. 2019-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE  
CITY MANAGER TO EXECUTE AN IMPROVEMENT AGREEMENT  
FOR PUBLIC IMPROVEMENTS OF LODI UNIFIED SCHOOL  
DISTRICT MAINTENANCE FACILITY, 880 NORTH GUILD AVENUE

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WHEREAS, the Lodi Unified School District (Developer) has submitted two building permit applications (No. 20190689 and No. 20190690) to construct a maintenance facility on the property located at 880 North Guild Avenue; and

WHEREAS, the project includes the installation of on-site public improvements and public improvements on Guild Avenue; and

WHEREAS, Developer has requested to execute an improvement agreement to design and construct the public improvements to expedite construction of the on-site improvements; and

WHEREAS, Developer has furnished the City with improvement plans, necessary agreements, guarantees, insurance certificates, and the required fees for the proposed project. Development Impact Fees will be collected as part of the building permit process, prior to issuing a certificate of occupancy; and

WHEREAS, staff recommends authorizing the City Manager to execute an Improvement Agreement for public improvements of Lodi Unified School District Maintenance Facility, 880 North Guild Avenue.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute an Improvement Agreement for public improvements of Lodi Unified School District Maintenance Facility, 880 North Guild Avenue.

Dated: October 22, 2019

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I hereby certify that Resolution No. 2019-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a special meeting held October 22, 2019 by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. FERRAILOLO  
City Clerk